

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3055 of 2007

19.2.2007

Between:

Maddi Krishna, S/o.Lalaiah

... Petitioner

AND

The Secretary, State Election Commissioner, Hyderabad

And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3055 of 2007

ORDER:

This writ petition is filed seeking a writ of Mandamus directing the first respondent namely, the State Election Commission, to set aside the election of the fifth respondent and declare the petitioner as successful candidate for the post of sarpanch of Bandaramaram village of Thungathurthy Mandal in Nalgonda District. The background of the case is that in the elections held for the post of sarpanch, in July 2006, the petitioner and fifth respondent filed nominations. The petitioner raised the objections at the time of scrutiny of the nominations alleging that fifth respondent incurred disqualification under Section 19(3) of A.P. Panchayat Raj Act, 1994 (the Act, for brevity). Be it noted the said provision disqualified a person to be elected or to be sarpanch of a Gram Panchayat if he has three children. The petitioner alleges that the 3rd child of the 5th respondent was born on 20.4.1995 and, therefore, *ex facie* he suffers disqualification. Alleging that after receiving the complaint, the fourth respondent did not take any action, the petitioner submitted an application to the first respondent, in vain. Therefore, he filed the present writ petition.

It is now well settled that notwithstanding the various provisions contained in Article 243K of the Constitution of India, it is not within the jurisdiction or powers of the State Election Commission to disqualify a candidate for election. The Act and the A.P. Panchayat Raj (Conduct of Elections of Members and Sarpanch of Gram Panchayat, Members of Mandal Parishad and Members of Zilla Parishad Rules) 1994, contain adequate provisions to deal with the situations either at pre-election stage or post-election stage. Learned Counsel for the

petitioner does not dispute that the petitioner has to approach under Section 22 of the Act by submitting application to the executive authority. Without availing such remedy, he approached the first respondent who has no jurisdiction to grant the relief.

The writ petition is misconceived and is accordingly dismissed.
No costs.

February 19, 2007.
YS

(V.V.S.RAO,J)